

1 A. Yes.

2 Q. Is that right?

3 A. Yes.

4 Q. Clearly you have a section of your drawer
5 for sexual harassment complaints?

6 A. Yes.

7 Q. Do you know of anyone else at the
8 institution who has investigated an internal sexual
9 harassment complaint since 1998 other than yourself?

10 A. Yes.

11 Q. Who?

12 A. His name is Bobby Johnson.

13 Q. A male Bobby?

14 A. Yes.

15 Q. Is he still there?

16 A. No, he is not.

17 Q. When did he work there?

18 A. He did not work there. He worked at the
19 Chillicothe Correctional Institution.

20 Q. Okay. For some period of time, somebody
21 from the outside would come in and investigate it?

22 A. If I am not available at times, we are
23 across the street from each other, so we help each
24 other out. He did conduct an investigation for me in

1 my absence about two years ago, if I am remembering
2 correctly.

3 Q. Who filed the complaint, do you know?

4 A. Miranda Joseph.

5 Q. Is that related to a Daniel Seacrest?

6 A. Yes, it was.

7 Q. That is the only one you're aware of that
8 someone else investigated?

9 A. That I recall.

10 Q. Okay. I'm sorry, did you want to add
11 something?

12 A. I do recall another. David R. Baker
13 investigated one about a year ago.

14 Q. Mr. Baker, does he work at Ross?

15 A. He does.

16 Q. What's his general duties?

17 A. He is the institutional investigator.

18 Q. Okay. Do you recall which one that was?

19 A. Hall -- Darren Hall and Bethany Collins.

20 Q. Is there a reason why you didn't
21 investigate that one?

22 A. Yes.

23 Q. What was that?

24 A. Allegations were made of a physical

1 assault. It was determined that outside charges may
2 be pursued. And it's the department's policy in any
3 circumstances that could lead to outside charges, the
4 investigator -- the institutional investigator
5 conducts the investigations.

6 Q. Okay. Have you gotten rid of any of your
7 investigatory files in this area since you've been
8 there?

9 A. I am required to keep them for five years.

10 Q. Okay. Is that what you've done?

11 A. Yes.

12 Q. What do you do with them after five years?

13 A. We shred them. We shred them if --

14 Q. If what?

15 A. If we are getting rid of them, they are
16 shredded, if I am remembering correctly.

17 Q. You mean if you remember that you're
18 supposed to shred them after five years?

19 A. Yes.

20 Q. So you should have at least five years of
21 all sexual harassment complaints there --

22 A. Yes, I do.

23 Q. -- files relating to them?

24 And there may be some other ones that just

1 haven't been shredded?

2 A. Maybe.

3 Q. Okay. Are you aware that there has been a
4 request made for those records in this litigation?

5 A. Yes.

6 Q. Have you provided those -- copies of all
7 of those files to counsel for the correctional
8 institute?

9 A. Yes.

10 Q. Okay. You haven't destroyed any of those
11 files since the litigation has been filed?

12 A. Absolutely not.

13 Q. Can you give me the name -- you mentioned
14 two names of sexual harassment charges internally
15 that have been investigated. They related to charges
16 by a Bethany Collins and by a Miranda Joseph.
17 Obviously, there was a charge by Miss Stayner also?

18 A. Yes.

19 Q. Any other charges, names of individuals
20 who brought charges like that that you investigated
21 that you can tell me?

22 MS. RABE: Objection. You can answer.

23 A. Of course, this is just strictly going by
24 what I recall off the top of my head.

1 Q. I understand.

2 A. Lisa Bethel.

3 Q. Lisa Bethel?

4 A. And Dr. Krisher.

5 Q. That would involve a Dr. Krisher?

6 A. Yes.

7 Q. How long ago was that?

8 A. Within the year.

9 Q. Okay. What kind of complaint was that?

10 A. Sexual harassment.

11 Q. What was the nature of it?

12 A. Sexual harassment.

13 Q. I understand. More specifically, what
14 supposedly occurred?

15 MS. RABE: You can answer.

16 A. Inappropriate comments.

17 Q. How was that resolved?

18 A. I don't recall.

19 Q. Just happened within a year, it's been
20 resolved?

21 A. It was resolved.

22 Q. And you don't recall how it was resolved?

23 A. I don't.

24 Q. What is Dr. Krisher's job at the

1 institution?

2 A. He's a medical doctor.

3 Q. Is he still there?

4 A. Yes, he is.

5 Q. Has he been disciplined in any way?

6 MS. RABE: Objection. You can answer.

7 A. That is why I said I don't recall. I
8 don't want to give you inaccurate information. I
9 don't recall what he received in that.

10 Q. Okay. Your testimony is he was
11 disciplined at some point?

12 MS. RABE: Objection, you can answer.

13 A. I think. I can't recall the extent, but,
14 yes.

15 Q. Lisa Bethel, what is her position?

16 A. Health care administrator.

17 Q. Okay. Any other complaints? And now
18 we've mentioned, as far as people that have
19 complained, we've mentioned Miranda Joseph,
20 Bethany Collins, Rosa Stayner and Lisa Bethel.

21 A. Sharon Lewis.

22 Q. Okay.

23 A. I'm sorry, I'm sorry, no, that was sexual
24 discrimination, not harassment. Sorry.

1 Q. Okay.

2 A. I don't recall.

3 Q. How many do you think there have been
4 since -- in the last five years?

5 A. Not many.

6 Q. Five? Ten? Twenty?

7 A. Maybe the five.

8 Q. Okay. What is the deputy warden's name?

9 A. Which deputy warden?

10 Q. The second in charge, that starts with an
11 L?

12 A. Jeff Lisath.

13 L I S A T H.

14 Q. Didn't he have sexual harassment charges
15 filed against him?

16 A. That would have been not something I am
17 involved with.

18 Q. That was pre-1998?

19 A. I should clarify, if I can.

20 MS. RABE: I'm going to enter into an
21 objection, but you can answer if you can.

22 A. The position of correction warden's
23 assistant I've had since 1998. I didn't receive the
24 assignment as EEO chairperson until 2004.

1 Q. Okay. And you're saying this was before
2 2004?

3 A. It must have been.

4 Q. Okay. You've heard of it, but you weren't
5 involved in it?

6 A. Right.

7 Q. Okay. Who would have been the person
8 involved in it in your similar position at that time?

9 MS. RABE: Objection. You can answer.

10 A. Robin Ware.

11 Q. That's a female?

12 A. Yes.

13 Q. She is still there?

14 A. No.

15 Q. When did she leave, do you know?

16 A. I think 2004.

17 Q. Do you remember what her position was?

18 A. Corrections Warden Assistant 2.

19 Q. Okay. Do you keep any records of outside
20 charges, sexual harassment or any lawsuits filed
21 against Ross Correctional Institute?

22 A. It would not be my responsibility.

23 Q. That is what I am asking. You
24 individually as opposed to someone else?

1 A. No.

2 Q. Okay. Do you know if anyone at the
3 institution, at Ross Correctional, who keeps copies
4 of such things, records of such things?

5 A. I do not.

6 Q. What happens, if you know, when a charge
7 is filed with the EEOC or the OCRC and/or a lawsuit
8 is filed against the Ross Correctional Institute,
9 it's not dealt with by anybody internally?

10 MS. RABE: Objection. You can answer.

11 A. We're required to do what is called a
12 position statement for the warden. The warden is
13 required to provide a position statement answering
14 the charges, to my understanding. And that's not
15 done by my -- by me.

16 Q. Okay. Position statement for who, for
17 some other part of the state?

18 A. For the Department of Rehab and
19 Corrections.

20 Q. Is somebody there, somebody in particular
21 in the department that you're in contact with?

22 A. Not that I contact with.

23 Q. That the warden would have -- that the
24 warden would have contact with?

1 MS. RABE: Objection. You can answer.

2 A. I think I'm not understanding.

3 Q. I'm thinking of a name of a person that
4 would particularly be the one in that interaction
5 position between the warden and the department of
6 corrections when an outside charge or a lawsuit is
7 filed.

8 A. Again, Marsha Kent.

9 Q. It would typically be Marsha Kent?

10 A. Or someone from that office.

11 Q. And that is the -- I'm sorry, you told me
12 this before.

13 A. Bureau of Staff Enrichment.

14 Q. For the Southern --

15 A. EEO section.

16 Q. -- for the Southern District of Ohio or
17 southern portion of Ohio?

18 A. Well, it's for the whole --

19 Q. But Marsha Kent, does she handle -- she
20 handles Ross, but you don't know what else she does?

21 A. I don't. Right.

22 Q. Okay. How recently have you talked to
23 Marsha Kent?

24 A. I arranged for training for my committee

1 last summer and talked with her requesting that she
2 come to conduct training probably June or July of
3 last year.

4 Q. Okay. You haven't talked to her since
5 then?

6 A. No.

7 Q. Okay. Have you talked to anybody else in
8 her office since then?

9 A. George Lopez.

10 Q. Okay. When did you last talk to him?

11 A. He conducted the training.

12 Q. You haven't talked to him since then?

13 A. Not that I recall.

14 Q. What type of training are you talking
15 about? What was the topic?

16 A. Committee training trends across the
17 country and that type of thing.

18 Q. EEOC trends in general, is that what
19 you're saying?

20 A. Yes, yes.

21 Q. And I guess I just want to focus, let's
22 say, from 2007 forward.

23 A. Okay.

24 Q. Has there been any extended period of time

1 when you were not working at Ross that you were off
2 for something other than a vacation or something like
3 that?

4 A. No.

5 Q. You've sort of answered this question
6 before when you were talking about your post high
7 school education. But do you have any formal
8 education in the criminology, penology, prison
9 administration, anything like that?

10 A. Outside of training I receive through the
11 Department of Rehab and Corrections, seminars,
12 training --

13 Q. Yes, let's focus first on the outside
14 concept. Any formal outside training in those areas?
15 Basic, penology, criminology, that type of thing?

16 A. Not outside of the department or seminars,
17 conferences, those types of workshops.

18 Q. What types of seminars would you say
19 you've taken that fit into that area?

20 A. Many. Too many to even recall.

21 Q. And what I'm trying to -- maybe I'm not
22 doing it very well, but I'm trying to separate your
23 training relating to the specific duties of your job
24 with just broader training relating to the prison

1 system and how the prison system functions and goals
2 of the prison system, that type of thing. You're
3 saying you've had some of that latter training?

4 A. Yes.

5 Q. Is that something you would typically have
6 training in every year?

7 A. Yes, yes.

8 Q. Have you had any specific training dealing
9 with the concept of female correction officers in a
10 male prison environment?

11 A. I don't recall specific training.

12 Q. Are you aware of issues that can be
13 created because of that concept of the female
14 corrections officers in the male prison environment?

15 A. Certainly.

16 Q. What type of training can arise because of
17 that?

18 A. I'm not recalling issues from training.

19 Q. Okay. Or your experience, what type of
20 issues?

21 A. Yes, certainly. There are issues that are
22 inevitable with male offenders and female corrections
23 officers. It's something that can be uncomfortable.

24 Q. There can be issues of respect between the

1 male inmates and the female prison guards?

2 A. Certainly.

3 Q. And if that respect gets undermined, it
4 can affect negatively the female corrections
5 officer's ability to do her job?

6 A. Certainly.

7 Q. For instance, if there's pornography all
8 over the prison and rules relating to it are not
9 enforced, that may impact the female corrections
10 officer's authority over inmates?

11 MS. RABE: Objection.

12 A. It's the corrections officer's job to
13 remove the pornography and to enforce the rules.

14 Q. And if those rules aren't enforced, among
15 other things, they can certainly undermine the female
16 corrections officer's position?

17 A. I guess if the officer chooses not to
18 enforce the rules, yes.

19 Q. Or if the male officer, for instance,
20 chooses not to enforce the rules?

21 MS. RABE: Objection. You can answer.

22 A. Yeah, if the rules are not enforced, yes,
23 certainly it can undermine anyone.

24 Q. And I don't know, but I'm just assuming

1 that there's more female pornography in the male
2 prison system than there is male pornography?

3 MS. RABE: Objection. You can answer.

4 A. I can't speak to that.

5 Q. You don't know?

6 A. I don't know.

7 MS. ESCHBACHER: Off the record.

8 (Recess taken.)

9 Q. I want to get a quick understanding of the
10 prison administration at the level that you're at.
11 And I think you've already explained to me a bit, you
12 report directly to Warden Sheets, is that correct?

13 A. Yes, I do.

14 Q. I think you said there were two deputy
15 wardens directly under Warden Sheets, is that
16 correct?

17 A. Yes.

18 Q. Who are they?

19 A. Carol Upchurch.

20 Q. Okay.

21 A. Jeff Lisath.

22 Q. There's another lady whose name has come
23 up in this, Michelle Ivey. Do you know her position?

24 A. Currently, she is the unit management

1 administrator.

2 Q. Who would she report to, if you know?

3 A. Jeff Lisath.

4 Q. And what would she do as unit management
5 administrator, if you know?

6 A. She supervises all of the unit functions
7 at the facility.

8 Q. The units being --

9 A. Offender housing units.

10 Q. Okay. Is there someone -- and maybe it's
11 within the duties that you described, but is there
12 someone at the prison who is, for lack of a better
13 word, sort of the human resource person there other
14 than yourself? Because, obviously, it sounds like
15 you have some of those duties?

16 A. Sandy Hinton.

17 Q. Anyone else like that?

18 A. There's a whole HR department.

19 Q. Sandy Hinton is the one that supervises
20 that?

21 A. Yes, senior management analyst,
22 specifically, yes.

23 Q. Okay. And you mentioned the one lawsuit
24 that you were involved in, personal lawsuit. Any

1 other lawsuits that you have been involved in other
2 than that one?

3 A. No -- yes, by an offender. I've been
4 named in suits by offenders.

5 Q. Okay. By someone in -- inmates, is that
6 what you're talking about?

7 A. Yes.

8 Q. I take it from what you said before,
9 you've never given a deposition or anything like that
10 in one of those suits or have you?

11 A. I went to federal court in Colorado for an
12 offender, and it was in about 1996. We were there
13 for four days. And we met with a lot of the
14 attorneys. And I don't recall a formal deposition
15 taking place, but my role in it was very minor.

16 Q. Okay. That would be when you were at the
17 Southern Ohio facility?

18 A. Yes, it was.

19 Q. And do you think you were a defendant in
20 that?

21 A. It wasn't exactly a defendant. The
22 offender was challenging his extradition to the State
23 of Colorado.

24 Q. Okay. I understand. Anything else like

1 that other than what you have mentioned, anything
2 else that sticks in your mind?

3 A. No.

4 Q. So there would be no other deposition or
5 something like what we're doing today?

6 A. No.

7 Q. But what you're saying is it's in the back
8 of your mind that you have been named as an
9 individual in some lawsuits through the years by
10 inmates?

11 A. Yes.

12 MR. COCO: Okay. Let me show you a
13 document and we'll go from there.

14 (Plaintiff's Exhibit No. 1 was marked for
15 identification.)

16 Q. I'm going to hand you a document we've
17 marked as Plaintiff's Exhibit No. 1. That, as I
18 understand it, is a copy of the general responses
19 that the defendants, other than Officers Hughes, made
20 to the discovery request in the case. And I'm
21 wondering if you have seen this before?

22 A. No, I have never seen this.

23 Q. Okay. Why don't you take a quick look
24 through it. I just want to make sure that that is

1 the case, you're not the person that signs off on
2 this, it's Warden Sheets. But I want to make sure
3 that you did not have any involvement, and I think
4 that's what you're saying in the responses to this.
5 So take a quick look at it first, if you would.

6 I take it none of that looks familiar, the
7 questions or the responses to them?

8 A. No, I have never seen this.

9 Q. Okay. That is fine. You do recall at
10 some point being asked for -- to gather materials
11 related to sexual harassment complaints in the past?

12 A. Yes.

13 Q. And providing them to counsel or providing
14 them to someone?

15 A. Yes.

16 Q. Okay. And you understood it had something
17 to do with this lawsuit?

18 A. Yes, it did.

19 Q. And other than those files that you
20 gathered relating to this lawsuit, any other files
21 that you gathered relating to the lawsuit?

22 A. No.

23 MR. COCO: Okay. Now, I'm going to focus
24 more specifically with what brings us here today.

1 And I'm going to give you a couple of documents that
2 I think we're going to be referring to periodically
3 that may help us if we get them marked as we're going
4 through it here, two sets of documents in particular.

5 (Plaintiff's Exhibits 2 and 3 were marked
6 for identification.)

7 Q. Let me hand you first what has been marked
8 as Plaintiff's Exhibit 2, and also what is marked
9 Plaintiff's Exhibit No. 3. And I think we're going
10 to be periodically referring to both of these
11 documents to help us get through this stuff hopefully
12 a little quicker.

13 Lisa, I'm sorry, I only have one copy
14 here, but I think this is all stuff that you have
15 seen.

16 MS. ESCHBACHER: If I know what it is --

17 MR. COCO: And we'll be describing it.

18 (Plaintiff's Exhibits No. 2 and No. 3 was
19 marked for identification.)

20 Q. Plaintiff's Exhibit No. 2, I don't know if
21 you have seen it in that form or not, that is part of
22 the response that Miss Stayner made to a discovery
23 request in the case. And the reason I'm giving you
24 that is that it has extensive notes by Miss Stayner

1 about certain incidences and certain discussions with
2 you that I may direct you to to help you if we get to
3 a certain area to see if you remember this and help
4 us discuss it. Do you recall seeing this in this
5 form at least, exhibit 2?

6 A. Not in this form, no.

7 Q. Okay. But I think as you're paging
8 through it, you're thinking, yeah, I've probably seen
9 some of these pages?

10 A. I've never seen this before and would have
11 no reason to, because that doesn't involve me.

12 Q. Okay. You're talking about Page 1 of
13 exhibit --

14 A. Page 1.

15 Q. Okay.

16 A. This, I have in my file.

17 Q. Page 2?

18 A. Page 2. However, it was conducted by a
19 member of my committee, a previous member of my
20 committee and not myself.

21 Q. I'm not intending to go through all those
22 pages and see if you seen them or not.

23 A. Okay.

24 Q. I'm just going to point you to some

1 information in those pages, and we'll talk about it.
2 But I want you to have that in front of you to use
3 while we're going through some of this, just because
4 I think it will make it easier.

5 And I'm also going to hand what you I
6 think is Plaintiff's Exhibit 3. And why don't you
7 take a few minutes to look through that.

8 In essence, as I understand it, you were
9 the one that investigated the initial charge by
10 Miss Stayner relating to the internal charge by
11 Miss Stayner relating to Sergeant Hughes, is that
12 right?

13 A. Yes, is it is.

14 MR. COCO: Exhibit 3 is basically what I
15 understand to be sort of the file relating to the
16 hearing and the investigation in this matter, the
17 initial investigation, initial hearing in the matter,
18 which was produced by the state in discovery. And
19 why don't you take a quick look through. It's
20 obviously very extensive, but, again, I think we're
21 going to be referring to it in various ways. So why
22 don't you take a quick look through it and see if, in
23 general, you think that's what that is.

24 MS. ESCHBACHER: Mark, just so we don't

1 have to make copies, I see Bates stamp numbers. If
2 you give me those numbers, I can pull them and know
3 what they are.

4 MR. COCO: Good idea. Exhibit 2,
5 Plaintiff's Exhibit 2, is the attachment to
6 Miss Stayner's interrogatories responses, and
7 individual pages are numbered 1 through 100.

8 MS. ESCHBACHER: Okay.

9 MR. COCO: Plaintiff's Exhibit 3 is
10 material from the production by the state defendants,
11 and is Bates number 304 through 385. And I think
12 that's all consecutive. I don't think there's any
13 pages left out.

14 MS. ESCHBACHER: Okay. That is great.

15 MR. COCO: Exhibit 1, I don't know if you
16 were here or not, we identified, and that's just the
17 responses to the interrogatories made by the state
18 defendants.

19 MS. ESCHBACHER: Okay. Thank you. I was
20 going to ask if I missed an Exhibit 1 when we started
21 with 2 and 3.

22 MR. COCO: Yes, you did.

23 Q. Is that a fair representation of
24 Exhibit 3, it appears to be the file relating to the

1 investigation of Miss Stayner's complaint and
2 relating to Sergeant Hughes?

3 MS. RABE: Objection. But you can answer.

4 A. I can't speak to the documents that were
5 not what my involvement was. But I can speak to the
6 documents that began with 308.

7 Q. Okay. So you're saying you created some
8 of those documents?

9 A. Some of those, yes.

10 Q. And you had other people involved in
11 talking to some people, that type of thing also?

12 A. No, I conducted the investigation solely.

13 Q. Okay. Is there something in there that
14 you think is -- let's focus on it that way. Is there
15 something in there, in Plaintiff's Exhibit 3, that
16 you think is not related to the investigation that
17 you headed up?

18 MS. RABE: Objection, but you can answer.

19 A. It was -- it is not our policy or practice
20 that I would be involved with this.

21 Q. You're talking about the first page?

22 A. Page 304. This would be after my
23 investigation is complete. So I couldn't speak to
24 that.

1 Q. Let's see if we can add clarity to the
2 record. I think I understand what you're saying.
3 Once this gets to the hearing phase, you're no longer
4 involved, is that what you're saying?

5 A. Unless called as a witness.

6 Q. In hearing, okay. To the extent that
7 there is something in Exhibit 3 that relates directly
8 to a hearing notice or something that occurred at a
9 disciplinary hearing, that wouldn't necessarily be
10 part of your investigation?

11 A. Correct.

12 Q. Okay. For instance, in 305, the next one
13 is a pre-disciplinary conference notice, which you
14 may have had some involvement in preparing. But what
15 you're saying, that really wasn't part of your
16 investigation?

17 A. I would have no involvement in preparing.

18 Q. The way to clarify this is, again, if
19 we're talking about anything relating to the hearing,
20 you wouldn't have been involved in the disciplinary
21 hearing or the pre-disciplinary hearing other than as
22 a witness. Other than that -- other than that, the
23 things in Exhibit 3 appear to relate to your
24 investigation?